

Williams County Board of DD

Administrative Resolution of Complaints

I. PURPOSE

- A. The purpose of this policy is to set forth the process for resolution of complaints involving the programs, services, policies, and administrative practices of the Williams County Board of Developmental Disabilities (WCBDD) or an entity under contract with the Board of DD. It also sets forth the process for individuals to appeal adverse actions proposed or initiated by the Board of DD. And further sets forth the requirement for county boards of developmental disabilities to give notice of the process to be followed for resolution of complaints and appeals of adverse action.

II. SCOPE

- A. Any individual or person, other than an employee of the Board of DD, may file a complaint or may appeal an adverse actions using the process set forth in this policy and OAC 5123:2-1-12. The process set forth in OAC 5123:2-1-12 shall be followed before commencing a civil action.
- B. This policy shall not be applicable:
 - 1. When the WCBDD is a vendor or subcontractor for service delivery.
 - 2. To services provided under Part C of the Individuals with Disabilities Education Act, 34 C.F.R. 303, as in effect on the effective date of OAC 5123:2-1-12. Complaints or appeals concerning such services shall follow rules adopted by the lead agency responsible for administration of Part C of the Individuals with Disabilities Education Act.
 - 3. To Medicaid services including home and community-based services, waiver services, and targeted case management services. Complaints or appeals concerning such services shall follow rules adopted by the Ohio Department of Medicaid.
 - 4. To services provided to a resident of an intermediate care facility (ICF) by the ICF, or provided on behalf of or through a contract with an ICF. Complaints or appeals concerning such services shall follow regulations governing ICFs.
- C. If the Board of DD determines that a complaint or appeal of adverse action filed with the Board of DD is not subject to this policy, the Board of DD shall provide information to the individual or person filing the complaint or appeal, including the name and telephone number, if available, of the appropriate entity with which to file the complaint or appeal of adverse action.
- D. An individual receiving non-Medicaid supported living services shall follow the terms of the contract of the service provider, as required by ORC 5126.45, prior to beginning the process for resolution of complaints or appeals of adverse action established in this policy.

III. DEFINITIONS

- A. "Adverse action" means any of the following:
 - 1. Denial of a request for a non-Medicaid service.
 - 2. Reduction in frequency and/or duration of a non – Medicaid service.
 - 3. Suspension of a non-Medicaid service.
 - 4. Termination of a non-Medicaid service (except when the recipient of that service is deceased).
 - 5. The outcome of an eligibility determination.
- B. "Advocate" means any person selected by an individual to act and/or communicate as authorized by the individual.

made pursuant to this policy, is presented using language and in a format understandable to affected individuals and persons.

All notices and responses made pursuant to this policy shall include an explanation of the individual or person's opportunity to file a complaint with or appeal to a higher authority, as applicable.

- E. The time lines set forth in this policy may be extended if mutually agreed upon in writing by all parties involved.
 - F. Initiation of the formal process set forth in this policy does not preclude the resolution of a complaint or an appeal of adverse action at any point, as long as the outcome is mutually agreed upon in writing by all parties involved.
- V. Requirements for county boards to provide information about the process for resolution of complaints and appeals of adverse action and to give notice of adverse action.
- A. General information about the process for resolution of complaints and appeals of adverse action.
 - 1. The Board of DD shall give the "Complaint or Appeal of Adverse Action Explanation Form" contained in Section IX of this policy to an individual at the time of the individual's initial request for services, at least annually to each individual receiving or on a waiting list for non-Medicaid services, and at the time of complaint within the scope of this rule received or the Board of DD proposes an adverse action.
 - 2. Upon request, the Board of D or contracting entity shall provide a copy of this policy and/or OAC 5123:2-1-12.
 - 3. The Board of DD shall publicly post the "Complaint or Appeal of Adverse Action Explanation Form" contained in Section IX of this policy.
 - B. Specific notice of adverse action.
 - 1. Except when it is necessary to suspend an individual's services without delay to ensure the health and safety of the individual or other individuals in accordance with OAC 5123:2-1-12(E) (3), the Board of DD shall provide written notice to the affected individual of the Board of DD's decision to deny, reduce, suspend, or terminate services at least fifteen (15) days prior to the effective date of such action. The notice shall include:
 - a. An explanation of the Board of DD's policy and/or authority for taking the adverse action;
 - b. A description of the specific adverse action being proposed or initiated by the Board of DD;
 - c. The effective date for the adverse action;
 - d. A clear statement of the reasons for the adverse action including a description of the specific assessments and/or documents that are the basis for the adverse action;
 - e. An explanation of the individual's right to appeal the adverse action;
 - f. An explanation of the steps the individual must take to appeal the adverse action;
 - g. A statement that the individual has ninety (90) calendar days to appeal the adverse action;
 - h. A statement that the individual must file his or her appeal prior to the effective date for the adverse action to keep his or her services in place during the appeal process;
 - i. The name and contact information for the staff member of the Board of DD who can assist the individual with his or her appeal; and
 - j. The "Complaint or Appeal of Adverse Action Explanation Form" contained in Section IX of this policy.
 - 2. The Board of DD shall retain written evidence of the date the notice is personally delivered or sent by certified mail to the individual or for an individual who has selected email as his

- individual or other individuals as necessary and restore the suspended services; or
- b. With the consent of the individual, continue to arrange for appropriate alternative services; or
 - c. Provide written notice that includes the components described in OAC 5123:2-1-12 (E)(2)(a)(i) to (E)(2)(a)(x) to the individual of the Board of DD's decision to terminate the individual's services at least fifteen (15) calendar days prior to the effective date of such action. If the individual files an appeal prior to the effective date of the termination of services, the Board of DD shall keep the individual's alternative services in place until the appeal process is completed.

VI. Informal process for resolution of complaints and appeals of adverse action.

- A. A county board may adopt a written policy describing an informal process that shall take no longer than thirty (30) days for resolution of complaints and appeals of adverse action. An individual or person may elect to participate in the informal process or may initiate the formal process set forth in this policy and in OAC 5123:2-1-12 (G).

VII. Formal process for resolution of complaints and appeals of adverse action.

- A. Step one: filing a complaint or appeal of adverse action with the supervisor or manager responsible for the program, service, policy, or administrative practice of the Board of DD.
 - 1. An individual or person must file a complaint with the supervisor of the Board of DD within ninety (90) calendar days of becoming aware of the program, service, policy, or administrative practice that is the subject of the complaint.
 - 2. An individual must file an appeal of adverse action with the supervisor of the Board of DD within ninety (90) calendar days of notice of the adverse action or within ninety (90) calendar days of conclusion of the informal process set forth in Board of DD policy. If the individual appeals an adverse action within the prior notice period (i.e., the period of time between notice of the intended adverse action and the effective date of the adverse action), the individual's services shall not be reduced, suspended, or terminated until the appeal process is completed or the appeal is withdrawn by the individual. An individual who appeals during the prior notice period may voluntarily consent in writing to the reduction, suspension, or termination of services during the appeal process.
 - 3. The supervisor of the Board of DD shall conduct an investigation of the complaint or appeal which shall include meeting with the individual or person who filed the complaint or appeal.

his or her designee. If no decision is provided by the superintendent of the Board of DD or his or her designee within fifteen (15) calendar days in accordance with this policy and OAC 5123:2-1-12 (G) (2) (e), the complaint or appeal of adverse action must be filed with the President of the Board of DD within twenty-five (25) calendar days of filing the complaint or appeal with the superintendent.

3. The President of the Board of DD shall ensure that a hearing is conducted within twenty (20) calendar days of receipt of the complaint or appeal at a time and place convenient to all parties. At such hearing:
 - a. The Board of DD may hear the complaint or appeal;
 - b. A committee of two or more Board of DD board members appointed by the President of the Board of DD with agreement of the county board may hear the complaint or appeal. The committee shall issue a report and recommendation to the county board within ten (10) calendar days of the conclusion of the hearing, or
 - c. A hearing officer appointed by the county board may hear the complaint or appeal. The hearing officer shall have the same powers and authority in conducting the hearing as granted to the county board. The hearing officer shall not be an employee or contractor of the county board providing any service other than that of hearing officer. The hearing officer need not be an attorney, but shall possess qualifications to be able to make neutral and informed decisions about the complaint or appeal. The county board may ask the Department to decide if a person is qualified to be a hearing officer. The hearing officer shall issue a report and recommendation to the county board within ten (10) calendar days of the conclusion of the hearing.
4. Upon request, the individual or person filing the complaint or appeal shall be provided access to all records and materials related to the complaint or appeal no less than ten (10) calendar days before the hearing.
5. To the extent permitted by law, the hearing shall be private unless the individual or person requesting the hearing wants it open to the public.
6. During the hearing, both parties may present evidence to support their positions.
7. The individual or person requesting the hearing and the county board have the right to be represented by an attorney.
8. The individual or person requesting the hearing shall have the right to have in attendance at the hearing and question any official, employee, or agent of the Board of DD who may have evidence upon which the complaint or appeal is based.
9. Evidence presented at the hearing shall be recorded by stenographic means or by use of an audio recorder at the option of

Board of DD, the Director shall send by certified mail, a copy of his or her decision to all affected parties. The Director shall uphold the decision of the county board if the Director determines that the decision is in accordance with applicable statute and administrative rule. The Director's decision shall include the rationale for the decision.

VIII. Other Remedies

After exhausting the administrative remedies required by OAC 5123:2-1-12 or this policy, an individual or person may commence a civil action if the complaint or appeal of adverse action is not resolved to his or her satisfaction.

Neither this policy nor OAC 5123:2-1-12 is intended to provide any right or cause of action that does not exist absent this rule.

IX. Complaint or Appeal of Adverse Action Explanation Form

A. Why would I file a complaint or appeal?

1. You may file a complaint if you are dissatisfied with a program, service, policy, or practice of the county board of developmental disabilities.
2. You may file an appeal of adverse action ("appeal") if your request for services is denied or if services you have been receiving are being taken away.

B. Do I have to file a formal complaint or appeal?

1. No; if you choose, you may start by trying to resolve your complaint or appeal informally with a supervisor or manager at the county board or developmental disabilities. You and the supervisor or manager can agree to work together to try to resolve your complaint or appeal. The informal process shall take no longer than 30 days.

C. Should I try to resolve my complaint or appeal informally before filing a formal complaint or appeal?

1. That is entirely up to you. Trying to resolve your complaint or appeal informally does not prevent you from filing a formal complaint or appeal.

D. When should I file a complaint or appeal?

1. A complaint must be filed within 90 days of becoming aware of the program, service, policy, or practice that is the subject of your complaint.
2. An appeal must be filed within 90 days of receiving notice that your services are being denied or taken away.

related to your complaint or appeal. You may be asked question about your complaint or appeal.

L. What will happen after the hearing?

1. You are entitled to receive, at no cost, a written transcript of the hearing. Within 15 days of a hearing conducted by the county board or the county board's receipt of the report and recommendation from a hearing officer, the President of the county board will send you by certified mail, the county board's decision regarding your complaint or appeal. The decision must include a rationale and a description of what you should do if you are still dissatisfied.

M. What if I am not satisfied with the county board's decision?

1. You may file your complaint or appeal with the Director of the Ohio Department of Developmental Disabilities. Your complaint or appeal must be filed in writing within 15 days of receiving the county board's decision. Staff of the county board will assist you if you need help. The Director or his or her designee may request additional information from you. Within 45 days of receipt of necessary documents related to your complaint or appeal, the Director or his or her designee will send you by certified mail, his or her decision regarding your complaint or appeal.

N. What if I am not satisfied with the Director's decision?

1. You may file a claim through the court system.

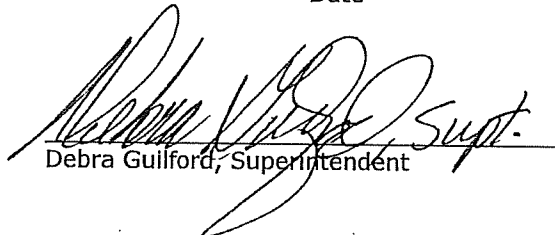
O. Who else can help me with my complaint or appeal?

1. Arc of Ohio at 1-800-875-2723, Disability Rights Ohio at 1-800-282-9181, or Ohio Department of Developmental Disabilities at 1-877-464-6733.

X. IMPLEMENTATION

This directive becomes effective on the board approved date indicated below and rescinds all previous memoranda on the subject.

Board Approved: 4-22-2019 Reviewed: _____ Revised: _____
Date Date Date


Debra Gullford, Superintendent

This policy replaces the previous Administrative Resolution of Complaints Policy approved by the Board on October 26, 2009.